

# **U.S. ARMY MILITARY POLICE: THE FORCE OF CHOICE FOR DEFENSE SUPPORT TO CIVIL AUTHORITIES**

A Monograph

by

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## ABSTRACT

**U.S. ARMY MILITARY POLICE: THE FORCE OF CHOICE FOR DEFENSE SUPPORT TO CIVIL AUTHORITIES, by LTC Karst K. Brandsma, 60 pages.**

The potential enormity of a domestic incident requiring the use of military forces strikes deeply at our nation's identity of domestic peace and tranquility. The federal government recognizes that the primary responsibility for response begins at the lowest municipal level, and ultimately belongs to each state governor and their state National Guard forces. However, the total force Army (to include Active and Army Reserve) has historically made up for shortfalls in extremis. The question remains, however, as to which capabilities are most desirable for Defense Support to Civil Authorities (DSCA). The capabilities inherent in military police formations, specifically the military police core capabilities of policing, investigating, and corrections, along with the military police functional missions of Mobility Support, Wide Area Security, Law Enforcement, Dislocated Civilian Resettlement, and Police Intelligence point towards the right capabilities for successful DSCA operations.

This study centers on case studies of two major domestic incidents with involved the use of federal forces, the Los Angeles Riots and Hurricane Katrina. The analysis uses the Cohen-Gooch model of mapping military failures against three independent criteria: the training levels of the response forces, the capabilities of the types of units deployed to the area, and the ability of that force to quickly and efficiently integrate with response forces already on the ground. The conclusion of this research validates the capabilities inherent in military police formations as uniquely suited to particular elements of the DSCA mission. The ability of a U.S. Army Military Police headquarters to provide mission command from the perspective of a professional law enforcement organization is not duplicated anywhere within the Department of Defense or Department of Homeland Security.

It is evident that DSCA requires a unique set of skills and therefore there are implications for force structuring, training, and equipping of forces. This monograph recommends further research to study a plan for apportionment of both reserve and active duty military police brigades in order to build rotational capacity for DSCA. A regionally aligned rotational capacity will ensure resourcing and training for DSCA so that in the future, U.S. citizens are assured a measure of safety and security during the times they need it most.

## ACKNOWLEDGMENTS

As a military police company commander stationed at Fort Polk, Louisiana I watched the federal response to Hurricane Katrina with great dismay. In the aftermath, I had no answers as to how so much good will and intention could still result in dismal failure. Through multiple discussions with my monograph director, Dr. Steve Lauer, I refined my questions into a suitable topic that hopefully creates dialogue between my military police colleagues regarding our role in domestic incidents and how to leverage our unique capabilities in that environment. I would like to sincerely thank Dr. Lauer for his mentorship and guidance during this process. To my ever-patient family, Emily, Lillian, and Cooper, thank you for enduring my year long “deployment” to the library when I could have been at home. I would be remiss not to acknowledge the generous assistance of Major Tim Mahoney, Major Jeff Quail, Major John Taylor, and Major Jody Shouse who selflessly gave away some of their own precious free time to review my work. The excellent research librarians at the Combined Arms Research Library were invaluable during the research process. Finally, I want to express my gratitude to the School of Advanced Military Studies and my seminar leader, Colonel Charles Evans, for providing me with the continuing opportunity to personally and professionally develop myself; skills which will carry me far into the future. Any failures of logic or clarity in this monograph are certainly the fault of the author and not the aforementioned individuals.

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## ACRONYMS

ARNG	Army National Guard
DOD	Department of Defense
DHS	Department of Homeland Security
DSCA	Defense Support to Civil Authorities
L.A.	Los Angeles
NORTHCOM	Northern Command
NRP	National Response Plan
PCA	Posse Comitatus Act

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## INTRODUCTION

There is perhaps no image more closely associated with the anti-war movement of the 1960s and 1970s than that of Mary Ann Vechio kneeling over the dead body of Kent State University student Jeffrey Miller.<sup>1</sup> On 4 May 1970, soldiers from A Company, 1/145th Infantry, and Troop G of the 2/107th Armored Cavalry, Ohio National Guard (ARNG), responded to protests occurring since 30 April on the Kent State University campus. The soldiers fired 67 rounds from M1 rifles and .45 caliber handguns in 13 seconds into a crowd of civilians, killing four students and wounding nine others.<sup>2</sup> Some of the victims were actively protesting the announcement of the escalation of the Vietnam War; others were merely walking to their next class. Photos of the incident, including the Pulitzer Prize winning photograph of Vechio and Miller, quickly created a public relations challenge for President Richard Nixon's administration. Days later, President Nixon evacuated to Camp David as a precaution due to "Civil War" like conditions in Washington, DC. At the same time, elements of the 82nd Airborne Division deployed to protect the White House.<sup>3</sup> There may not be a direct relationship between the "Kent State Massacre" and federal policy decisions. However, there is no doubt that the high degree of civil unrest in the 1960s and 1970s affected the political climate, influenced national debate on the role of the federal government domestically and abroad, and became a backdrop to the eventual removal of combat forces from Vietnam in 1973.

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<sup>1</sup>Wikipedia Upload, "Mary Ann Vecchio Kneels over the Body of Jeffrey Miller," Wikipedia Foundation, Inc, [http://upload.wikimedia.org/wikipedia/en/6/65/Kent\\_State\\_massacre.jpg](http://upload.wikimedia.org/wikipedia/en/6/65/Kent_State_massacre.jpg). (accessed 12 February 2014).

<sup>2</sup>Paul J. Scheips, *Role of Federal Military Forces in Domestic Disorders, 1945-1992* (Washington, DC: U.S. Army Center of Military History, 2005), 405-407.

<sup>3</sup>Ibid., 410.

The 1960s and 1970s were not the only time in American history characterized by instability. In 2005, nothing conveyed a failure of government more clearly to the average American citizen than the photo of a UH-60 Blackhawk helicopter hovering above a mass of citizens from the city of New Orleans during the aftermath of Hurricane Katrina.<sup>4</sup> A military flight crew unable to land safely, dropped bottled water and emergency rations on a desperate crowd that in a struggle for the necessities of life. The death toll by the end of disaster relief operations was 1,349 United States (U.S.) citizens, or roughly half of the number of those lost during the terrorist attacks on 11 September 2001. By the end of the first week of disaster relief operations, over 26,000 ARNG soldiers were on the ground in both Louisiana and Mississippi in an attempt to bring relief to the region. On 2 September 2005, the 3rd Brigade, 82nd Airborne Division were alerted to provide federal support; 2nd Brigade, 1st Cavalry Division would soon follow on 5 September. In the end, over 72,000 soldiers deployed to the affected region, including over 50,000 soldiers from every state ARNG in the continental U.S. Despite this overwhelming response, it still took five days from the hurricane's landfall to make the decision to alter federal forces for deployment—the largest response by federal forces to a natural disaster since the response of approximately 30,000 soldiers to Hurricane Andrew in 1992.<sup>5</sup>

These two examples paint a picture of the potential enormity of a domestic response, such as was the case with Hurricane Katrina, as well as the large impacts that even a small military response can make on domestic policy decisions following the Kent State Massacre. Domestic disorder in the U.S., whether from natural disaster, acts of civil disobedience and

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<sup>4</sup>Eric Gay, "A Military Helicopter Makes a Food and Water Drop to Survivors of Hurricane Katrina near the Convention Center in New Orleans," Associated Press, 1 September 2005, <http://ww3.hdnux.com/photos/10/00/06/2097570/13/628x471.jpg> (accessed 12 February 2014).

<sup>5</sup>James A. Womrell, *Army Support During the Hurricane Katrina Disaster: The Long War Series Occasional Paper 29* (Fort Leavenworth, KS: Combat Studies Institute Press, n.d.), 145-175.

disruption, or from an act of terror, strikes deeply at our nation's identity of domestic peace and tranquility. To the American citizen, these images are extraordinarily powerful because they show our fellow citizens' suffering. When coupled with the high political stakes involved in domestic crisis management, this, in essence, conveys the criticality of the military's role in the Defense Support to Civil Authority (DSCA) mission as part of Unified Land Operations internal to the borders of the U.S. While certainly not a new idea in military doctrine, Army Doctrine Publication 3-0, *Unified Land Operations*, formally recognizes DSCA as one of the foundations of Decisive Action; the Army's fundamental approach to war fighting.<sup>6</sup> As military theorists, planners, and strategists struggle to identify a post-Operation Iraqi and Enduring Freedom threat to plan against, it remains highly likely that the active Army will perform a DSCA mission in the near future. Recent meteorological concerns, a trend towards an increasing threat of transnational terrorist organizations, and an increasingly agitated and polarized domestic populace are all indicators that it is not a matter of if a large-scale domestic disturbance will occur, but when. The federal government recognizes, through the National Response Framework, that the primary responsibility for response begins at the lowest municipal level, and ultimately belongs to each state governor and their state ARNG forces. However, the total force Army (to include Active and Army Reserve) has historically demonstrated that it may be requested to make up for capability shortfalls in extremis. It remains in the best interest of military planners and force managers to continue to refine response force capabilities and command and control relationships in order to achieve rapid and decisive favorable results.

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<sup>6</sup>Headquarters, Department of the Army (HQDA), Army Doctrine Publication (ADP) 3-0, *Unified Land Operations*, Official Department of the Army Publications and Forms, October 2011, [http://armypubs.army.mil/doctrine/DR\\_pubs/dr\\_a/pdf/adp3\\_0.pdf](http://armypubs.army.mil/doctrine/DR_pubs/dr_a/pdf/adp3_0.pdf) (accessed 11 February 2014), 6.

### Working Hypothesis

The capabilities inherent in military police formations, specifically the Military Police Brigade headquarters, are particularly well suited to particular elements of the DSCA mission. More specifically, the military police core capabilities of policing, investigating, and corrections, along with the military police functional missions of Mobility Support, Wide Area Security, Law Enforcement, Dislocated Civilian Resettlement, and Police Intelligence point towards the right capabilities for successful DSCA operations. The skills and training required in the military police military occupational specialties of 31B (Military Police Soldier), 31D (Special Investigator), 31E (Corrections and Detention Specialist), and 31K (Military Working Dog Handler), as well as the various additional skill identifiers germane to the Military Police Soldier are immediately recognizable as professional in nature. As a profession, the military police must meet rigorous professional standards expected in any other profession. This includes accreditation by a governing body, certification of those choosing to enter the profession, self-governance of standards and best practices, a code of ethical conduct, and an enormous amount of specialized technical skill. The essential element is that these are nearly identical to the qualifications and standards required for first responders and emergency managers. Additionally, within a military police headquarters, personnel hone these capabilities daily through the exercise of their law enforcement mission. The ability of a U.S. Army military police headquarters to provide mission command from the unique perspective of a professional law enforcement organization as well as subordinate maneuver or maneuver support formations is not duplicated anywhere within the Department of Defense or Department of Homeland Security.

In his book, *On War*, Carl von Clausewitz lays out a three-step approach to conduct critical analysis: (1) discover the equivocal facts; (2) trace the effects back to the root causes; and

(3) investigate and evaluate the means employed.<sup>7</sup> This study follows the same research methodology format.

Beginning with an identification of the operating environment, and following with a description of the core capabilities of the U.S. Army military police, the monograph continues with an inquiry into two case studies of DSCA: the Los Angeles (L.A.) Riots, and Hurricane Katrina. This will identify a core body of enabling characteristics that are favorable for military forces operating in support of domestic disturbances and link them to the capabilities existing in military police formations. Through an analysis of case studies from two different subsets of DSCA, specifically civil disobedience and disaster relief, the work identifies if these traits exists across a wide variety of environments in which a military police force may find itself employed.

It is not helpful for the purposes of building a learning organization to place all the blame for military failure at the foot of one individual. It is also folly to go to the opposite extreme and blame the entire military institution. It is far more productive to use a critical method of analysis to attempt to derive links between failures to attempt to find productive solutions. Reconstructing historic events in a chronological narrative may assist in determining immediate consequences of failures, but to discover the root causes of failures, it is better to use a critical analysis. To trace events to their root causes, this study uses the Cohen-Gooch model of analyzing failure in military operations.<sup>8</sup> With this method, it will be possible in each case study to draw links between points of critical military failure and three key independent variables: the training level of response forces, the ability to integrate as a supporting command to local authority, and the capability required in response forces. This study will determine in each case study there was a

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<sup>7</sup>Carl von Clausewitz, *On War*, trans. Michael Howard and Peter Paret (Princeton, NJ: Princeton University Press, 1976), 156.

<sup>8</sup>Eliot A. Cohen and John Gooch, *Military Misfortunes: The Anatomy of Failure in War* (New York, NY: Free Press, 1990), 22.

gap in which units were ill-prepared, ill-equipped, and ill-trained to rapidly and effectively restore civil order; a gap that can be closed by the efficient employment of the military police.

It is evident that DSCA requires a unique set of skills and therefore there are implications for force structuring, training, and equipping of forces; all clearly within the Army Forces Command Title 10 role and responsibility to affect. The challenges posited in the Army operating concept are the questions this monograph will answer. Which forces have the best training to be a supporting agency for civil support? Can this force integrate and coordinate with local civil and law enforcement authorities? Which tactical Army leaders have the training to understand the legal authorities and caveats for operating in a DSCA environment? Finally, how can these forces plan and train to best leverage their capabilities?

## BACKGROUND AND CHARACTERISTICS OF THE DSCA ENVIRONMENT

### Background

Training and Doctrine Command, in Pamphlet 525-3-1, *The United States Army Operating Concept 2016-2028*, specifically discusses the future nature of Army operations. As such, it is a supporting document to the U.S. Code Title 10 functions of the Army generating force. Specifically, it described:

. . . how future Army forces conduct operations [to] succeed in a wide range of contingencies in the future operational environment. It describes the employment of Army forces in the 2016-2028 timeframe with emphasis on the operational and tactical levels of war. In addition to describing broadly how Army headquarters organize and direct the employment of their forces, the concept describes the major categories of Army operations and identifies the capabilities required of Army forces to guide and prioritize future force development.<sup>9</sup>

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<sup>9</sup>Department of the Army (DOA), Training and Doctrine Command Pamphlet (TRADOC PAM) 525-3-1, *The United States Army Operating Concept - 2016-2028*, The Official Homepage of the U.S. Army Training and Doctrine Command, 19 August 2010, <http://www.tradoc.army.mil/tpubs/pams/tp525-3-1.pdf> (accessed 10 March 2014), iii.

The Army Operating Concept reframes the operational and tactical levels, how the Army organizes at these levels, and describes how to employ that force. This document, written in 2010, began to drive a variety of reforms in the Army, starting primarily with the Doctrine 2020 plan and Army Doctrine Publication 3-0. The Army, as defined in Army Doctrine Publication 3-0, conducts Unified Land Operations, through Decisive Action. Unified Land Operations is the simultaneous conduct of offense, defense, and stability tasks, as part of the two core competencies of combined arms maneuver and wide area security. Stability tasks further divide into two subsets, depending on whether or not the Army employs inside or outside the borders of the U.S. Among the challenges identified in this future operational environment is how military forces will integrate into operations within the U.S., the DSCA environment. The operating concept specifically lays out four distinct challenges that are unique to DSCA missions:

- (1) **Unity of command is potentially problematic** due to split authorities, particularly when conducting simultaneous homeland defense and civil support missions. DOD is the lead agency for homeland defense, and a supporting agency for civil support.
- (2) Army forces conducting homeland defense and civil support missions **require extensive integration** and must **coordinate closely** with multiple local civil and law enforcement authorities.
- (3) When operating on U.S. soil, leaders and Soldiers must **understand the legal authorities** and caveats related to military operations such as those pertaining to collecting and maintaining information on and detaining U.S. citizens.
- (4) The **integration of Title 10 and Title 32 forces will require planning and training to best utilize the capabilities of each.**<sup>10</sup> [emphasis added]

What is missing from this list of challenges is a description of the very essence of the problem itself: the nature of the disaster response. While there are many various instances where a military force may deploy in the continental U.S., the commonality that runs between all of these instances is that they depend on the inability of local responders to contain the incident. At some critical moment, each incident requiring military force reaches a tipping point by which

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<sup>10</sup>DOA, TRADOC PAM 525-3-1, *The United States Army Operating Concept*, 28.

civil authority formally requests an organized military response capability. This implies that time horizons predict, observe, and then respond to the incident. Note that this is a different type of disaster response than immediate response authorities granted to military commanders by law when in need of immediate necessity. A threat requiring an immediate response, by definition, is unpredictable and difficult to foresee and plan against except to ensure general readiness of the force and the foreknowledge of the requirements for response by the military commanders in charge.

Regardless of the type of response required, there are strategic, operational, and tactical considerations that are unique to the DSCA environment. At a policy-strategic level, there are a multitude of laws and policies to consider. The Army is subject to the Posse Comitatus Act (PCA), the Insurrection Act, the Robert T. Stafford Disaster Relief and Emergency Assistance Acts, and the aforementioned Immediate Response Authority given to commanders. In this regard, the Department of Defense (DOD) is typically peripheral to the development of laws, which is the purview of state legislatures and Congress. It is beyond the scope of this monograph to discuss national policy decisions and legal interpretations and therefore will move forward with the assumption that these laws will remain without modification in the near future. However, each one bears mention in order to understand the legal framework of the environment that military forces operate within.

### Constraints on Military Action

#### The Posse Comitatus Act

The U.S. has a long tradition of healthy mistrust towards a domestically quartered standing army. The third amendment to the Constitution specifically bars the quartering of soldiers in a private residence without the consent of the owner during wartime, and expressly

forbids it in peacetime.<sup>11</sup> This can be seen as reactionary to British quartering laws and events such as the Boston Massacre; a reaction so strong that the maintaining of “Standing Armies without the consent of our legislatures,” in the Colonies was listed as a specific grievance against the King of England in the Declaration of Independence. The second amendment to the constitution further built the foundation for a well-regulated militia as “being necessary to the security of a free State,”<sup>12</sup> from which the state ARNG land forces derive their mandate. As the country continued to expand westward, experiencing the constant threat of Indian raids, and facing challenges to the validity of the new federal government, such as the Whiskey Rebellion of 1791, Congress passed the Calling Forth Act of 1807.<sup>13</sup> This act allowed the call up and detailed the terms of the employment of federal military forces as either a temporary supplement to, or a replacement of, local civilian authority. Under Section 2 of the Calling Forth Act, the President had authority to further utilize military forces when a state in the union made a formal request for assistance. It would not be until the Civil War, and especially during southern Reconstruction, when the use of federal force was without the consent and control of the state.

Following the end of the Civil War, the government’s use of federal soldiers, particularly in the states formerly considered part of the defeated Confederacy, was a continued practice even after all other antebellum political sanctions and legal restrictions were lifted. The Ku Klux Klan Act of 1871 gave the President, under the auspices of enforcing the recently ratified 14th Amendment to the Constitution, the additional duty of using force wherever there were obstructions to the execution of laws that deprived “any portion or class of the people” of any

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<sup>11</sup>U.S. Constitution, amend. 3.

<sup>12</sup>U.S. Constitution, amend. 2.

<sup>13</sup>Matt Matthews, *The Posse Comitatus Act and the United States Army: A Historical Perspective* (Fort Leavenworth, KS: Combat Studies Institute Press, 2006), 7.

state “the equal protection of the laws.”<sup>14</sup> Regardless of the original intent of the PCA of 1878, the resulting legislation has stood as one of the enduring and widely misunderstood laws curbing the use of federal forces for domestic use.<sup>15</sup> The fundamental provisions of the act are firm limitations placed on the federal government, restricting the use of the military as a domestic law enforcement agent unless expressly authorized by an act of Congress. In modern practice, this expands to include all U.S. Code Title 10 forces. The ARNG, and the U.S. Coast Guard, which operate under U.S. Code Title 32, are not party to the restrictions in the PCA and, upon the authority of the state, may perform law enforcement tasks within that particular state. However, as explored further in later sections, the federal military has been and most likely will continue to be, used in a law enforcement capacity. According to the Cato Institute:

The Posse Comitatus Act . . . [does not prohibit] the president from using the army to restore order in extraordinary circumstances—even over the objection of a state governor. What it does is **set a high bar for the use of federal troops in a policing role.** That reflects America’s traditional distrust of using standing armies to enforce order at home, a district that is well-justified.<sup>16</sup> [emphasis added]

While the PCA may seem to be a definitive answer to the separation between federal and state authorities, there are exceptions that “set a high” bar for police actions. The next three sections of this monograph describe three main exceptions to PCA.

#### Insurrection Act, Chapter 15 of U.S. Code Title 10

The Constitution of the U.S. gives Congress authority to use the militia “to execute the Laws of the Union, suppress Insurrections and repel Invasions,” further guaranteeing each individual state the protection from any disruption of that state’s “republican form of

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<sup>14</sup>Scheips, *The Role of Federal Military Forces in Domestic Disorders*, 5.

<sup>15</sup>Matthews, *The Posse Comitatus Act and the United States Army*, 33.

<sup>16</sup>Gene Healy, “Domestic Militarization: A Disaster in the Making,” CATO Institute, 27 September 2005, [http://www.cato.org/pub\\_display.php?pub\\_id=5074](http://www.cato.org/pub_display.php?pub_id=5074) (accessed 12 December 2007).

government.”<sup>17</sup> The Insurrection Act of 1807 authorized the President of the U.S. to employ federal troops in the event that local or state authorities are unable to maintain good public order.<sup>18</sup> Generally, the President can deploy forces for the purposes of suppressing an insurrection or a civil disturbance in one of three instances. First, section 331 of U.S. Code Title 10 authorizes the President to use federal military forces in order to suppress an insurrection at the request of a state governor, or the legislature of that state. Second, federal military forces may be used by the President either against the wishes of or in lieu of a Governor's approval as a response to a rebellion, insurrection, general lawlessness, or a conspiracy against the federal government. Third, section 332 of Title 10 delegates the Constitutional authority of Congress to call forth the militia to the President, authorizing him to determine that military force is required to uphold federal law, which continuing under section 333, includes the federalization of the ARNG.<sup>19</sup> When civil war appeared eminent, President James Buchanan “declined to send troops into seceding states, apparently based on his misapprehension that any troops dispatched to execute the laws of the Union would necessarily be subordinate to civil authorities.”<sup>20</sup>

His successor, President Abraham Lincoln, would not share this same interpretation of the law. Although later found by the Supreme Court to be unconstitutional, President Lincoln often used his power as Commander in Chief of the Armed Forces to use federal forces without subjugating his authority to that of the state governments.<sup>21</sup> Congress appeared to be conciliatory to this interpretation by amending Section 2 of the Calling Forth Act to add ““rebellions” to

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<sup>17</sup>U.S. Constitution, art. 1, section 8.

<sup>18</sup>*Insurrection Act of 1807*, U.S. Code Title 10 § 333, ch. 39, 2 Stat. 443 (codified at U.S. Code 10 (2000) § 331-335).

<sup>19</sup>Matthews, *The Posse Comitatus Act and the United States Army*, 37-39.

<sup>20</sup>Ibid., 14.

<sup>21</sup>Ibid.

instances for which the use of the Armed Forces was envisioned.”<sup>22</sup> This would ensure that federal forces employed under the Insurrection Act would remain, ultimately, under the command and control of the President.

Following a perceived inability of the state and federal governments to work together to solve the problems of Hurricane Katrina in 2006, the National Defense Authorization Act of 2007 amended The Insurrection Act to expand the instances under which a military force could employ. Under the National Defense Authorization Act of 2007, troops could deploy under Presidential authority specifically as a police force if the disorder is a result of, or is the residual to a natural disaster, epidemic, serious public health emergency or terrorist attack.<sup>23</sup> Under this amendment, the President can make a determination that maintaining public order is beyond the capability of state emergency response forces, which could potentially include the ARNG. Under heavy protest from state governments, the 2008 National Defense Authorization Act eventually repealed this, restoring the original intent of the Insurrection Act and ensuring that federal response to disasters would be under the direction of the state governments.<sup>24</sup> The President still maintains the power to defend the U.S. as an exception to the PCA, but this ensures a division between federal and state authority and accountability in the case of an insurrection, exercised under federal auspices as noted above, and in disaster relief, which the states request.<sup>25</sup>

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<sup>22</sup>Ibid.

<sup>23</sup>U.S. Congress, House, *National Defense Authorization Act for Fiscal Year 2007*, U.S. Government Printing Office, 17 October 2006, <http://www.gpo.gov/fdsys/pkg/PLAW-109publ364/pdf/PLAW-109publ364.pdf> (accessed 6 March 2014), sect. 1076.

<sup>24</sup>U.S. Congress, House, *National Defense Authorization Act for Fiscal Year 2008*, U.S. Government Printing Office, 6 December 2007, <http://www.gpo.gov/fdsys/pkg/CRPT-110hrpt477/pdf/CRPT-110hrpt477.pdf> (accessed 6 March 2014), sect. 1068.

<sup>25</sup>*Insurrection Act of 1807*, §331 - §335.

### The Robert T. Stafford Disaster Relief and Emergency Assistance Act

Prior to 1950 there was no existing federal disaster program that could provide comprehensive support to a state following a natural disaster. Congress approved all requests for support on solely a case-by-case basis. The Disaster Assistance Program, Public Law 80-875, authorized the President to provide monetary relief for a state upon the request of a governor, which would then have to be formally declared a disaster by the federal government.<sup>26</sup> Critical to the act was the subordination of the federal assistance to the requirements of the state, which is a significantly different set of conditions than the Insurrection Act, which, as noted in the previous section, derives from the authority of the President to maintain domestic tranquility.

The Disaster Assistance Program expanded over the years to ease the mechanisms by which a state could get support and created standing supporting federal agencies, most notably the Federal Emergency Management Agency, to manage national response.<sup>27</sup> The Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988 provides the legal means by which the federal government may formally supplement state and local resources in major disasters or emergencies where those state and local resources have been or will be overwhelmed. The Act allows separate mechanisms for declaration of a major disaster and for declaration of an emergency. In the exceptional instances where a disaster emergency involves primarily federal interests, the Governor of the affected state must initiate a declaration of major disaster and declaration of emergency by a formal request to the President.<sup>28</sup>

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<sup>26</sup>Emergency Management Institute, “IS-634: Introduction to FEMA’s Public Assistance Program,” Federal Emergency Management Agency, <http://training.fema.gov/emiweb/IS.courseOverview.aspx?code=is-634.pdf> (13 March 2014 ).

<sup>27</sup>U.S. Department of Homeland Security, *The Federal Emergency Management Agency Publication 1*, The Federal Emergency Management Agency, November 2010, <http://www.fema.gov/pdf/about/pub1.pdf> (accessed 3 March 2014).

<sup>28</sup>Wombrrell, *Army Support During the Hurricane Katrina Disaster*, 19.

Not every disaster warrants a Presidential emergency declaration, but between 3,500 and 3,700 disasters meet the criteria annually. Of these disasters, even fewer require the use of federal military forces, but through the law it is clear that when employed those forces must understand the subordinate role they play to state and other federal management agencies.<sup>29</sup>

#### The Immediate Response Authority

In 1831, federal soldiers deployed into several states on several occasions as a response to reported slave insurrections. In each case, those soldiers deployed on the authority of local federal military commanders who reacted to the requests of local authorities for assistance.<sup>30</sup> In a more modern context, under certain circumstances, military commanders can exercise their authority to utilize federal assets to take action to respond to an incident to save lives, prevent human suffering, or mitigate great property damage under imminently serious conditions.<sup>31</sup> This authority is limited, only used if federal, state, municipal authorities or first responders intend to take control of emergency management within a generally applied 72-hour period. This is different from a Mutual Assistance Agreement, which is a formalized agreement between an installation commander and local emergency responders for ensuring the security and safety of federal military personnel and property in the “surrounding environment” which can include off-post.<sup>32</sup> In the author’s experience, this is widely used across the military as a tool to provide

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<sup>29</sup>Ibid.

<sup>30</sup>Charles Doyle and Jennifer K. Elsea, Congressional Research Service Report for Congress, *The Posse Comitatus Act and Related Matters: The Use of the Military to Execute Civilian Law*, Federation of American Scientists, 16 August 2012, <http://www.fas.org/sgp/crs/natsec/R42659.pdf> (accessed 10 January 2014), 14.

<sup>31</sup>Joseph J. Urgese and G. Roderick Gillette, “CBRNE CM Legal Considerations for the Joint Warfighter,” *Joint Center for Operational Analysis Journal* 11, no. 1 (Winter 2008-2009): 24, Defense Technical Information Center, <http://www.dtic.mil/cgi-bin/GetTRDoc?Location=GetTRDoc&docName=a519336.pdf> (accessed 10 March 2014).

<sup>32</sup>Ibid., 25.

mutual aid in fighting fires, providing emergency medical care and ambulatory support, and in the case of “hot pursuit” law enforcement activities when a suspect crosses a boundary by entering or exiting a military installation.

#### The National Incident Management System and the National Response Plan (NRP)

Following the terrorist attacks on 11 September 2001, the creation of additional federal policies ensured that during emergencies the coordination between the local, state, and federal governments were effectively and timely. In November 2002, President George W. Bush created the Department of Homeland Security as a new federal agency whose principal duties included the management of the newly created *National Strategy for Homeland Security*, written earlier that year. This strategy directed the creation of a national system to integrate all federal emergency response plans into a single all-hazard, all-disciplines management plan.

In early 2003, the White House issued Homeland Security Presidential Directive 5, which ordered the Department of Homeland Security Secretary to:

- (a) create a comprehensive National Incident Management System (NIMS) consisting of a nationwide approach for Federal, State, and local governments to work effectively together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size , or complexity, and (b) develop and administer an integrated National Response Plan (NRP), within the NIMS framework, to provide the structure and mechanisms for national level policy and operational director for Federal support to State and local incident managers.<sup>33</sup>

Homeland Security Presidential Directive 5 required all federal agencies, to include the DOD, to use the National Incident Management System in their plans, and actively participate in the NRP. The plan provides mechanisms and structures for coordination of federal support to State and local emergency managers as well as guidelines for exercising federal authorities. The NRP is built on the customary practices defined in earlier laws and statutes; that State sovereignty

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<sup>33</sup>U.S. Executive Office of the President, *The Federal Response to Hurricane Katrina* (Washington, DC: Government Printing Office, 2006), 27.

is paramount and incidents, including all natural and man-made disasters, should generally be handled at the lowest level of response, starting with first responders and local governments. This includes all natural and man-made disasters. When local responders are overwhelmed, there is a tiered approach to response starting with the State, to neighboring states through formal mutual aid agreements.<sup>34</sup> When federal assistance is necessary, there will be a coordinated and systematic process that includes incident reporting, alerts and notifications, coordination of response efforts, and mobilizing of resources.<sup>35</sup> Figure 1 depicts the entire NRF process.

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<sup>34</sup>U.S. Department of Homeland Security, *National Response Framework*, 2nd ed., Federal Emergency Management Agency, May 2013, [http://www.fema.gov/media-library-data/20130726-1914-25045-1246/final\\_national\\_response\\_framework\\_20130501.pdf](http://www.fema.gov/media-library-data/20130726-1914-25045-1246/final_national_response_framework_20130501.pdf) (accessed 22 February 2014), 4-13.

<sup>35</sup>U.S. Department of Homeland Security, “NIMS and the Incident Command System,” Federal Emergency Management Agency, [http://www.fema.gov/txt/nims/nims\\_ics\\_position\\_paper.txt](http://www.fema.gov/txt/nims/nims_ics_position_paper.txt) (accessed 13 February 2014).

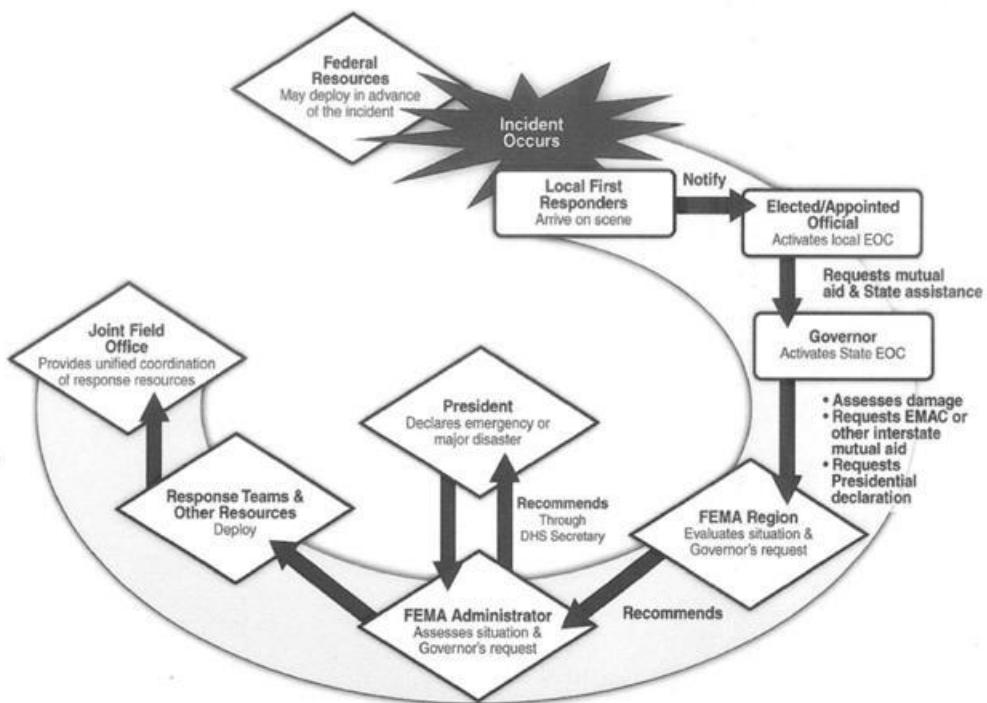


Figure 1. National Response Framework Process

*Source:* Kent Soebbing, “Army Force Structure Considerations in Defense Support of Civil Authorities” (Master of Strategic Studies Monograph, U.S. Army War College, Carlisle, PA, 2012), 4.

Specific triggers for the NRP are vague, and left for elected officials to interpret.<sup>36</sup> Within Homeland Security Presidential Directive 5, the President instructed the Secretary of the Department of Homeland Security to coordinate federal resources and responses to major disasters, terrorist attacks, or other emergencies if one of four specific conditions exists:

- (1) A Federal department or agency acting under its own authority has requested the assistance of the Secretary;
- (2) The resources of State and local authorities are overwhelmed and Federal assistance has been required by the appropriate State and local authorities;

<sup>36</sup>U.S. Executive Office of the President, *The Federal Response to Hurricane Katrina*, 14.

(3) More than one Federal department or agency has become substantially involved in responding to the incident; or

(4) The Secretary has been directed to assume responsibility for managing the domestic incident by the President.<sup>37</sup>

#### DOD Directive 3025.1, Military Support to Civil Authorities

In addition to the federal laws and policies discussed which govern the use of military forces in domestic incidents, the DOD also has various policies and directives that provide further guidance to commanders. The most pertinent to this study is DOD Directive 3025.1, Military Support to Civil Authorities, which lays out the overall structure of the military's civil support program. It further constrains the use of federal resources by directly stating that although DOD assets are available for response operations, civilian resources must be applied first, and in the request for federal assistance, determined to be inadequate.<sup>38</sup> It further reinforces federal law by providing policy guidance on the implementation of assistance by reasserting the primacy of ARNG troops by stating, "Army and Air National Guard forces, acting under state [Title 32] orders . . . have primary responsibility for providing military assistance to State and local government agencies in civil emergencies."<sup>39</sup>

#### Characteristics of the DSCA Environment

Between the PCA, Insurrection Act, Stafford Act, and the Immediate Response Authority, the legislation implies that there are several essential characteristics of a federal

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<sup>37</sup>Official Website of the Department of Homeland Security, "Homeland Security Presidential Directive-5," U.S. Department of Homeland Security, 28 February 2003, <https://www.dhs.gov/sites/default/files/publications/Homeland%20Security%20Presidential%20Directive%205.pdf> (accessed 22 February 2014), §4.

<sup>38</sup>Department of Defense (DOD), Department of Defense Directive (DODD) 3025.1, *Military Support to Civil Authorities (MSCA)*, Homeland Security Digital Library, 15 January 1993, <http://www.hSDL.org/?view&did=385> (accessed 19 January 2014), 4.

<sup>39</sup>DOD, DODD 3025.1, *Military Support to Civil Authorities*, 6.

military force employed under each of these laws and authorities. The most important characteristic is that a military force responding to a domestic emergency must be trained to act as a law enforcement enabler in support of the rule of law. This is a unique condition for military leaders and planners to consider. The offensive, defensive, and stability tasks normally required for deployment to a combat theater are not necessarily compatible with requirements for DSCA. In fact, there are tasks required for a police-type response that may have no correlation to combat operations at all. This leads to the conclusion that these unique DSCA tasks and organizational structures required by law necessitate a degree of specialized training not germane to a unit deploying to a combat theater. Specifically, the missions involving suppressing violent or illegal domestic activities encountered in disaster relief or insurrections are unique. Commanders and staffs need to understand the limits of their authorities when operating in a supporting role to other federal agencies and even potentially state authorities when deployed to this environment.

#### CHARACTERISTICS OF THE MILITARY POLICE BRIGADE

Within the foundations of *Unified Land Operations*, Army Doctrine Publication 3-0 outlines two core competencies within the Army's primary war fighting doctrine: Combined Arms Maneuver and Wide Area Security.<sup>40</sup> These two competencies are the ways in which Army forces employ to conduct decisive action; the mix of missions that encompass offensive, defensive, and stability tasks, to include DSCA. Although there is some degree of each of the elements of decisive action within both core competencies, wide area security, defined as the "application of the elements of combat power . . . to protect populations, forces, infrastructure, and activities . . . to consolidate gains to retain the initiative," speaks directly to the missions required for DSCA.<sup>41</sup>

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<sup>40</sup>HQDA, ADP 3-0, *Unified Land Operations*, 5.

<sup>41</sup>Ibid., 6.

Within the spectrum of DSCA missions as outlined in Army Doctrine Publication 3-28, *Defense Support to Civil Authorities*, there are key functions that are germane to the military police brigade. Primary is the ability to interface with civilian law enforcement, both directly and indirectly.<sup>42</sup> Both instances of support require an understanding of federal law, presidential directives, and DOD policies on the use of federal forces in support of law enforcement officials. Indirect support occurs regularly between Army forces and other law enforcement agencies conducting border security, counter drug operations, and antiterrorism actions. Direct support is much rarer, but when it occurs, it is because there has been a determination that a situation has grown in magnitude to where local responders are incapable of acting to protect life and property, or has shown to be unwilling or unable to enforce federal laws. In this case, there should be special training on law enforcement for a military unit directed to conduct direct intervention. The only units in the Army inventory with these skills are the military police brigades. Military police units are uniquely equipped to conduct operations to establish civil law and order. Military police soldiers train and have experience in graduated-response techniques and rules for use of force, the application of the minimum force required to de-escalate a situation. Law enforcement tasks include responding to civil disturbances, employing special reaction teams, conducting raids, utilizing military working dogs, investigations, searches, and traffic operations.<sup>43</sup>

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<sup>42</sup>Headquarters, Department of the Army, Army Doctrine Publication 3-28, *Defense Support to Civil Authorities*, Official Department of the Army Publications and Forms, June 2013, [http://armypubs.army.mil/doctrine/DR\\_pubs/dr\\_a/pdf/adp3\\_28.pdf](http://armypubs.army.mil/doctrine/DR_pubs/dr_a/pdf/adp3_28.pdf) (accessed 11 February 2014), 4-8.

<sup>43</sup>Headquarters, Department of the Army (HQDA), Field Manual (FM) 3-39, *Military Police Operations*, Official Department of the Army Publications and Forms, October 2011, [http://armypubs.army.mil/doctrine/DR\\_pubs/dr\\_a/pdf/fm3\\_39.pdf](http://armypubs.army.mil/doctrine/DR_pubs/dr_a/pdf/fm3_39.pdf) (accessed 11 February 2014), 3-4.

There are many definitions of what constitutes a professional. Army Doctrine Reference Publication 1, *The Army Profession*, defines five characteristics of a professional, which this monograph will adopt as a standard definition:

Professions provide a unique and vital service to the society served, one it cannot provide itself. Professions provide this service by applying expert knowledge and practice. Professions earn the trust of the society because of effective and ethical application of their expertise. Professions self-regulate; they police the practice of their members to ensure it is effective and ethical. This includes the responsibility for educating and certifying professionals. Professions are therefore granted significant autonomy and discretion in their practice of expertise on behalf of the society.<sup>44</sup>

The U.S. Army Military Police School has led the efforts to recognize military police as professional law enforcement officials. Through the Federal Law Enforcement Training Accreditation process, Army military police are now accredited by the same governing body that accredits the Federal Bureau of Investigation Academy, the U.S. Secret Service—James J. Rowley Training Center, and the Federal Law Enforcement Training Center.<sup>45</sup> Federal Law Enforcement Training Accreditation ensures that Army military police certifications are compliant to a set of standards established by peer organizations. Further, the U.S. Army Military Police School continues to professionalize by developing the Peace Officer Standards and Training (POST) program for the DOD.<sup>46</sup> This program is the standard for training and evaluation of law enforcement officers and is required for any individual prior to employment within any agency that requires typical police duties. The certifications of the various military police Military

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<sup>44</sup>Headquarters, Department of the Army, Army Doctrine Reference Publication 1, *The Army Profession*, Official Department of the Army Publications and Forms, October 2011, [http://armypubs.army.mil/doctrine/DR\\_pubs/dr\\_a/pdf/adrp1.pdf](http://armypubs.army.mil/doctrine/DR_pubs/dr_a/pdf/adrp1.pdf) (accessed 11 February 2014), 1-1.

<sup>45</sup>Federal Law Enforcement Training Accreditation, “Accredited Academies,” <https://www.fleta.gov/AboutFLETA/accredited-academies.html> (accessed 5 March 2014).

<sup>46</sup>Dawn Arden, “DA POST Certification Enters Second Phase,” The Official Homepage of the United States Army, 6 February 2014, [http://www.army.mil/article/119694/DA\\_POST\\_certification\\_enters\\_second\\_phase/](http://www.army.mil/article/119694/DA_POST_certification_enters_second_phase/) (accessed 5 March 2014).

Occupational Specialties hold up to scrutiny as professional in nature and provide a capability that is unmatched anywhere within the Army.

Military police demonstrate their competence through the execution of their unique capabilities and tactical tasks. Combined, these capabilities and tasks inform the military police disciplines of police operations, detention operations, and security and mobility support. In the decisive action concept, there are elements of offense, defense, and stability tasks within both combined arms maneuver and wide area security.<sup>47</sup> Military police organizations stand out as not only having the security and mobility support disciplines, which support maneuver, but also the heavy emphasis on police and detention operations that directly support wide area security. This focus of operations through a lens of policing and corrections enables civil order maintenance, threat mitigation, and personnel and asset protection.<sup>48</sup> These specialized tasks are practiced through the daily execution of providing a safe and secure environment for Army assets and personnel who work or reside on U.S. military installations. Unlike a unit that must go through an extensive training period to build capability, the training, and execution of daily law enforcement tasks directly translates to a high degree of readiness to conduct wide area security missions.

The military police operate in four main mission areas during a DSCA mission. They provide support to civil law enforcement, restore and maintain order, conduct resettlement of dislocated civilians, and allow for the movement of dislocated civilians in and out of the disaster area.<sup>49</sup> As required, they may simultaneously support other forces, federal agencies, or state agencies in order for them to function normally. Military police units have essential skills and technical capabilities for relief missions, with an emphasis on restoring civil order and the rule of

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<sup>47</sup>HQDA, ADP 3-0, *Unified Land Operations*, 6.

<sup>48</sup>HQDA, FM 3-39, *Military Police Operations*, 1-2.

<sup>49</sup>HQDA, FM 3-39, *Military Police Operations*, 5-23.

law. By nature of these unique skills and capabilities, military police can effectively provide operational unity through three lines of effort. Military police can bridge the civil military divide through law enforcement partnerships and effective coordination. They have a level of public identification and acceptance not found in other branches of military service because of their title, “Military Police,” and identifying markings on equipment, vehicles, and uniforms. Finally, they possess the training and ability to use a graduated amount of force that begins with interpersonal communication skills to defuse dangerous situations, the use of unarmed self-defense measures, employment of working dogs, less-than-lethal weapons and technologies, and finally the presentation and use of deadly force.<sup>50</sup>

## CASE STUDIES

Legal considerations will drive the requirements as to the constraints placed upon the employment of soldiers in a federal law enforcement capacity. However, they do not specify the exact nature of the tasks executed within these constraints. A critical analysis of the skills required of the employed force will help discern the type of force and the capabilities therein. The examination of two case studies spanning two separate submissions, civil disturbance, and natural disaster relief, will reveal key lessons learned concerning the required skills of a response force. Each case study highlights variables used to answer the research questions: What are the capabilities required of the response force? How were these forces trained to accomplish their mission? By what means were they employed and integrated into a complex environment?

### The L.A. Riots, 1992

At approximately 3:15 p.m. on 29 April 1992, an all-white jury found four L.A. police officers not guilty of the aggregated assault of Rodney King, a black man. A local bystander

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<sup>50</sup>Ibid., 5-4 - 8-5.

videotaped the officers savagely beating King in the course of his apprehension, which was a key piece of evidence against the officers. Following the verdict, a violent explosion of public anger showed that many citizens of L.A. clearly expected a guilty verdict.<sup>51</sup> By 4:00 p.m., an aggressive crowd of protestors had turned into a destructive mob that started by yelling at passers-by and quickly escalated into assaulting pedestrians and motorists by throwing various projectiles. The first emergency call to local law enforcement was at 4:30 p.m., only one hour and fifteen minutes after the verdict. Nationally, crews in helicopters captured the beating of truck driver Reginald Denny, a white man, by a group of black men on live television while the nation watched. City police, rather than make a quick stand to contain the escalating violence, chose instead to retreat. Near the downtown police center, a diverse crowd turned out to protest: from gang members flashing colors and hand signs, to Revolutionary Communist Party members waiving homemade signs.<sup>52</sup>

By that night, the conditions had worsened to the point of causing L.A. Mayor Tom Bradley to impose a curfew in an effort to prevent more citizens from congregating into mobs. The violence quickly spread, and looters targeted local gun and pawnshops in an effort to secure weapons and ammunition. Two large gun stores located downtown were unprotected, abandoned, quickly looted, and burned to the ground. An estimated 3,000 handguns, rifles, and shotguns were taken from these two stores alone.<sup>53</sup> Ambulance and fire crews widely reported they were targeted by gunfire throughout the week. Unlike the Watts Riots of 1965 that were merely confined to the central districts of L.A., the riots of 1992 quickly spread to from Hollywood Hills in north L.A.,

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<sup>51</sup>James D. Delk, *Fires and Furies: The L.A. Riots-What Really Happened* (Carlsbad, CA: ETC Publications, 5 October 1994), 25.

<sup>52</sup>Ibid., 35.

<sup>53</sup>Ibid., 36.

to Long Beach, over 30 miles to the south. The first responders continued to fall under attack as they performed their duties, and were quickly overwhelmed.<sup>54</sup>

At 8:30 p.m., less than five hours after the verdict, California Governor Pete Wilson ordered 2,000 California National Guardsmen to assist the police in securing areas of known violence.<sup>55</sup> Impatience grew, as the ARNG took longer than anticipated to mobilize and deploy into the city from their armories. Due to a lack of ammunition and the proper riot control equipment, mainly a restrictive locking plate that would prevent weapons from firing in full-automatic mode, the first ARNG troops did not stand on the streets of L.A. until almost 2:30 p.m. the next day. By 8:00 p.m. on 30 April, there were almost 2,000 ARNG troops conducting operations with L.A. Police Department.<sup>56</sup> Even so, police found it increasingly difficult to maintain order and requested an additional 2,000 soldiers.

The recovery of L.A. was happening too slowly and Governor Wilson was encouraged by Warren Christopher, the chair of the citizen's council on Law Enforcement to ask for federal assistance as "the National Guard was very slow to move in and . . . not very effective in these situations."<sup>57</sup> Over 5,000 separate incidents of civil disturbances, and 30 burning fires with over 800 firefighters committed convinced the Mayor and Governor that the ARNG deployed too slowly to handle the problem effectively. By 5:15 a.m. on 1 May, upon Governor Wilson's request, President George H.W. Bush under the Insurrection Act federalized the ARNG units. Another 4,000 Army and Marine troops augmented them with orders to "suppress the violence

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<sup>54</sup>Delk, *Fires and Furies*, 33-34.

<sup>55</sup>Ibid., 37.

<sup>56</sup>Matthews, *The Posse Comitatus Act and the United States Army*, 48.

<sup>57</sup>Ibid., 49.

[. . .] and to restore law and order in and about the City and County of Los Angeles, and the other districts of California.”<sup>58</sup>

Up to this point, the ARNG had been providing Law Enforcement support direction with the L.A. Police Department. The federal forces had a different idea of the mission. Based on their mission analysis, the newly formed federal Joint Task Force Los Angeles, commanded by Major General Marvin L. Covault, U.S. Army, believed that the President had given them the task to suppress the violence, specifically by conducting riot control, not as support to law enforcement. It was most succinctly stated by a brigade commander in the 7th Infantry Division, “We weren’t going to try and do police work.”<sup>59</sup> However, since the California ARNG was federalized, this would include them as well. According to Major General James Delk, the on-ground commander of the ARNG, “all of our soldiers were now engaged in law enforcement missions, not riot control. In that regard, commanders were struck by the fact that there were so many criminals still in the street even though many thousands had already been arrested and remained incarcerated.”<sup>60</sup> Additionally, there seemed to be an arbitrary approval process of missions that the federal force would undertake. Only “10% of missions were approved,” after federal soldiers became employed.<sup>61</sup> This is counterintuitive to the spirit of the Insurrection Act, which typically is invoked to enable the federal force to accomplish more with respect to enforcement of laws, not less.

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<sup>58</sup>William M. Medel, “Combat in Cities: The LA Riots and Operation RIO,” Foreign Military Studies Office, July 1996, 49-52. Accessed 18 February 2014, <http://fmso.leavenworth.army.mil/documents/rio.htm>; and Matthews, 49-52.

<sup>59</sup>Doyle and Elsea, *The Posse Comitatus Act and Related Matters*, 16.

<sup>60</sup>Delk, *Fires and Furies*, 180-181.

<sup>61</sup>Ibid., 250-251.

Changes to the rules of engagement made by Joint Task Force Los Angeles further confused the soldiers on the ground, leaving many National Guardsmen feeling as if the federal forces issued the new, more restrictive, rules as cover for leaders in case a soldier killed a civilian.<sup>62</sup> These new rules restricted soldiers from putting the magazines with ammunition in their weapons without authorization from the headquarters, which was directly contrary to the practices of law enforcement.

By the end of the incident, and disengagement of federal forces, on 8 May, the reported figures on damage were 54 killed, an estimated \$752 million in damages to L.A. County and the city itself, 308 homes and apartment buildings damaged or destroyed, and 565 arson fires under investigation.<sup>63</sup> Once the federal forces left, state authorities requested the ARNG continue the missions that they had been performing prior to federalization: traffic control operations, static area security, detention facility security, patrolling with law enforcement, and providing security support for public utilities to include fire departments.<sup>64</sup>

There are several applicable areas to consider in this case study. The first area to consider is civil disturbance mission tasking guidelines. Table 1 depicts the list of tasks proposed by the 40th Infantry Division (California ARNG) as appropriate for both ARNG and federal troops.

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<sup>62</sup>Delk, *Fires and Furies*, 200.

<sup>63</sup>Ibid., 256.

<sup>64</sup>Ibid., 261.

Table 1. Civil Disturbance Mission Tasking Guidelines

Civil Disturbance Mission Tasking Guidelines			
Appropriate Tasks	State National Guard	Federal Restore Law & Order	Federal Preserve Law & Order
1. Man Traffic Control Points	X	X	
2. Provide Building Security	X	X	X(-)
3. Escort Emergency Equipment	X	X	
4. Provide Area Security/Area Patrols	X	X	
5. Provide Security at Custody Facilities	X	X	
6. Provide Security for Emergency Work Crews	X	X	X(-)
7. Protect Sensitive Sites	X	X	X(-)
8. Transportation of Law Enforcement Personnel	X	X	
9. Show of Force	X	X	
10. Disperse Crowds	X	X	
11. Employ Riot Control Agents	X	X	
12. Provide VIP Protection/Escort	X	X	
13. Provide Quick Reaction Force	X	X	
14. Joint Patrol/Ride Alongs	X	X	
15. Other Missions Mutually Agreed Upon	X	X	X
Inappropriate Tasks	State National Guard	Federal Restore Law & Order	Federal Preserve Law & Order
1. Hostage Negotiation	X	X	X
2. Barricaded Suspect	X	X	
3. Evidentiary Searches	X	X	
4. Criminal Investigations	X	X	

Source: James D. Delk, *Fires and Furies: The L.A. Riots-What Really Happened* (Carlsbad, CA: ETC Publications, 5 October 1994), 264.

In the execution of these tasks, there are four additional points to consider. First was the lack of foresight and planning into the response. This manifested itself in the lack of coordination between state officials and both the California ARNG and active Army as to when forces would flow into the area. This had a rippling effect throughout the entire operation, as the perception of the Guard's response would be what ultimately prompted the state leadership, specifically Governor Wilson, to request federal forces. Second, the lack of logistical preparation meant that even when ARNG troops activated at their armories, they still lacked the proper ammunition, and critical civil disturbance equipment to include face shields, riot batons, M-16 lock plates, and communications equipment.<sup>65</sup>

Third was the lack of specialized training for deploying active forces as well as guardsmen. Due to competing combat training requirements, state and ARNG officials allowed the contingency planning and training for civil disturbance operations to degrade.<sup>66</sup> The riots clearly indicated that there was a need for training exercises in order to rehearse actions, and train leaders on legal parameters. Additional training should have been conducted with interagency partners. The civilian command and control system was often slow to issue coherent direction to the supporting military forces. With neither effective prior planning nor interagency cooperation, there was a struggle ensuring unity of effort.

Finally, the riots showed that military forces must be equipped specifically for civil support operations. Radios suitable for the city environment, personal protective equipment, and less-than-lethal means of dealing with well-armed criminal gangs are required in sufficient numbers to support military forces involved in a large civil disturbance. A delay in getting the

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<sup>65</sup>Delk, *Fires and Furies*, 302.

<sup>66</sup>Medel, “Combat in Cities: The LA Riots and Operation RIO,” 6.

right kind of non-lethal ammunition to the soldiers was partially responsible for the widespread perception of lackluster performance by the California ARNG.<sup>67</sup>

#### Hurricane Katrina, 2005

In 2005, what began as Tropical Depression 12 upgraded to hurricane-level status on 23 August 2005.<sup>68</sup> Later that afternoon, Hurricane Katrina made first landfall in southern Florida, passed over, and lingered in the Gulf of Mexico, gathering strength at a frightening rate. By 26 August, it had grown in size to a Category 3 storm and the National Weather Service predicted it would grow even larger, comparing it to Hurricanes Andrew and Camille, two of the strongest storms on record.<sup>69</sup> State officials in Louisiana and Mississippi declared states of emergency and Louisiana Governor Kathleen Blanco activated 2,000 ARNG Soldiers as a preventative measure.<sup>70</sup> Later that same day, Mississippi Governor Haley Barbour authorized his Adjutant General to activate the Mississippi ARNG as well.<sup>71</sup> Upon the request from Governor Blanco, President George W. Bush declared a federal state of emergency declaration for Louisiana and soon thereafter declared Florida to be a federal disaster area. This would be one of only a few

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<sup>67</sup>Christopher M. Schnaubelt, “Lessons in Command and Control from the Los Angeles Riots,” *Parameters* 27, no. 2 (Summer 1997): 88-109, <http://strategicstudiesinstitute.army.mil/pubs/parameters/Articles/97summer/schnau.htm> (accessed 18 January 2014).

<sup>68</sup>U.S. Congress, Senate, *Hurricane Katrina: A Nation Still Unprepared*, Report of the Committee on Homeland Security and Governmental Affairs, Senate Report 109-322, 109th Congress, 2nd Session, U.S. Government Printing Office, May 2006, <http://www.gpo.gov/fdsys/pkg/CRPT-109srpt322/pdf/CRPT-109srpt322.pdf> (accessed 22 February 2014), 51.

<sup>69</sup>U.S. Congress, Senate, *Hurricane Katrina: A Nation Still Unprepared*, 51.

<sup>70</sup>U.S. Congress, Senate, *Hurricane Katrina: The Defense Department's Role in the Response*, Hearing before the Committee on Homeland Security and Governmental Affairs, 109th Congress, 2d Session, U.S. Government Printing Office, 9 February 2006, <http://www.gpo.gov/fdsys/pkg/CHRG-109shrg27028/html/CHRG-109shrg27028.htm> (accessed 29 January 2014), 3-4..

<sup>71</sup>U.S. Congress, Senate, *Hurricane Katrina: A National Still Unprepared*, 67.

instances where a President would invoke a federal emergency declaration before a hurricane made landfall.<sup>72</sup> Emergency managers in both states were confident that they were prepared as best as they could be: search and rescue units were activated and on standby, ARNG troops were on station in three coastal counties, and state officials estimated that there was at least a day and a half of clean water and food on hand in evacuation shelters.<sup>73</sup>

By the time that Hurricane Katrina made landfall on 29 August, it was approximately 460 miles wide, over twice the size of Hurricane Andrew, with winds topping over 127 miles per hour.<sup>74</sup> The NRP, the Federal Emergency Management Agency's newly created plan of action for disaster response, collapsed almost immediately under the sheer magnitude of the disaster. The storm overwhelmed first responders, many of whom had to concern themselves with their own survival. The storm completely knocked out most of the electronic infrastructure, rendering emergency operations centers without power, or the means to communicate. In the rare cases when first responders were able to communicate, they often could not physically reach each other due to a demolished coastal road network. Social order quickly broke down in many parts of the Gulf Coast. The largest city affected, New Orleans, quickly became the visible face of anarchy during the days to follow. Reports of large sections of police walking off the job led to a general feeling of panic.<sup>75</sup> New Orleans Mayor Ray Nagin stated that his city was overtaken by "drug-starving crazy addicts, drug addicts that are wreaking havoc. And we don't have the manpower to

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<sup>72</sup>U.S. Executive Office of the President, *The Federal Response to Hurricane Katrina*, 27.

<sup>73</sup>Wombrrell, *Army Support During the Hurricane Katrina Disaster*, 2.

<sup>74</sup>Axel Graumann, Tamara Houston, Jay Lawrimore, David Levinson, Neal Lott, Sam McCown, Scott Stephens, and David Wuertz, Technical Report, 2005-01, *Hurricane Katrina: A Climatic Perspective*, National Climatic Data Center, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, October 2005, <http://www.ncdc.noaa.gov/oa/reports/tech-report-200501z.pdf> (accessed 29 January 2014), 1-2.

<sup>75</sup>Ibid., 3.

adequately deal with it. We can only target certain sections of the city and form a perimeter around them and hope to God that we're not overrun . . . I need reinforcements, I need troops, man . . . Because every day that we delay, people are dying and they're dying by the hundreds.<sup>76</sup>

Due to operational requirements in support of Operation Iraqi Freedom, not all ARNG Soldiers and Airmen in Louisiana and Mississippi were available for relief efforts. Table 2 shows the availability and utilization of each state's Army and Air National Guard forces. Governors Blanco and Barbour, under pre-coordinated Emergency Management Assistance Compacts (EMAC), requested additional emergency resources from other states, to include the use of their ARNG, which slowly streamed into the affected disaster areas in the days following landfall.<sup>77</sup> After the first week of response operations, over 15,000 ARNG troops were active in Louisiana and over 11,000 in Mississippi.

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<sup>76</sup>Ray Nagin, interview by Garland Robinette, Cable News Network, 2 September 2005, "Mayor to Feds: 'Get Off Your Asses,'" Turner Broadcasting System, Inc., <http://www.cnn.com/2005/US/09/02/nagin.transcript> (accessed 29 January 2014).

<sup>77</sup>U.S. Executive Office of the President, *The Federal Response to Hurricane Katrina*, 37.

Table 2. Availability and Utilization of State Army and Air National Guard Forces during Hurricane Katrina

National Guard	Louisiana	Mississippi
<b>Total Number</b>	10,225	11,925
<b>Redeploying from Iraq</b>	3,800	2,700
<b>Available to Governor</b>	6,425	9,225
<b>Number Employed in Hurricane Response</b>	5,700	2,941

Source: Lynn E. Davis, Jill Rough, Gary Cecchine, Agnes Gereben Schaefer, and Laurinda L. Rohn, *Hurricane Katrina: Lessons for Army Planning and Operations* (Santa Monica, CA: RAND Corporation, 2007), 21-22.

The overwhelming response by EMAC ARNG units was unprecedented in American history. Prior to the Hurricane Katrina disaster, the largest domestic employment of ARNG troops was 16,599 soldiers in support of disaster relief to the San Francisco earthquake of 1989.<sup>78</sup> Lieutenant General H. Steven Blum, Director of the ARNG Bureau, directly intervened to ensure the mobility efforts were timely and of “maximum support . . . to save human life, prevent immediate human suffering, or lessen major property damage or destruction,” and promised 20,000 additional troops within the next three days.<sup>79</sup> According to Senate investigations later, the units eventually mobilized based on what the mobilizing state believed would be most helpful, not because of requirements from Louisiana or Mississippi and not due to a military troops-to-task analysis. According to the same Senate report, often these troops went without even knowing

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<sup>78</sup>Davis et al., *Hurricane Katrina: Lessons for Army Planning and Operations*, 23.

<sup>79</sup>Ibid., 24.

what mission they would be performing when they arrived in the disaster area.<sup>80</sup> Despite the rapid buildup of EMAC forces, considering all states that responded, only an estimated 15 percent of available forces actually came to the aid of Mississippi and Louisiana. This was due to a lack of specificity of types of units, other competing missions, and the lack of pre-planned deployment activities stymieing the speed at which units could mobilize and deploy to the disaster area.<sup>81</sup>

The NRP takes into account the fact that a mix of ARNG and active duty forces may be called up for disaster relief and considers the unique constraints placed on the active duty forces, specifically concerning the PCA. It is clear that ARNG soldiers operate under the direct control of the state governor and the adjutant general for that state. Federal forces report to the DOD, and the President as Commander in Chief. The NRP therefore recognizes that there may be two distinct chains of command for each force. This is an important distinction as ARNG forces in a non-federalized status are not subject to the provisions of PCA, and therefore can directly participate in law enforcement activities. In Louisiana, the capability of the ARNG to perform these tasks was one of the primary reasons Governor Blanco resisted attempts to federalize forces assigned to her state. This guaranteed that any federal forces brought into Louisiana would be operating in a separate chain of command, with no legal basis to perform law enforcement, despite the prevalent criminality.<sup>82</sup>

Despite a lack of task analysis, the basic support tasks, to include water purification, search, and rescue, medical support, and communications support were performed mostly due to the sheer mass of soldiers sent to the affected states. The only domain that suffered because of a lack of professional skills was law enforcement. Military police force shortfalls were prevalent

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<sup>80</sup>Ibid., 25.

<sup>81</sup>Ibid., 26-27.

<sup>82</sup>U.S. Congress, Senate, *Hurricane Katrina: A Nation Still Unprepared*, ch. 25.

despite the Louisiana and Mississippi EMAC requests asking specifically for law enforcement and security units.<sup>83</sup> Federal planners recognized the potential for a federal military role in law enforcement, post disaster. U.S. Senate reports confirm that the Vice President’s Counsel, David Addington, wrote to the DOD General Counsel the day before the hurricane made landfall, stating, “Given the potential massive size of the problem there could be civil unrest during the aftermath . . . you might want to have an [Insurrection Act] proclamation . . . in case it is needed.”<sup>84</sup> The decision not to invoke the insurrection act effectively tied one hand behind the backs of the federal military forces response concerning law enforcement and effective command and control.

On 29 August, the day the hurricane touched land, Governor Blanco telephoned President Bush telling him “we need everything you’ve got.”<sup>85</sup> The next day, Lieutenant General Russel Honoré took command of Joint Task Force Katrina to lead the federal military response. While Blanco did not specifically ask for military support, the Adjutant General for the State of Mississippi, Major General Bennett C. Landreneau, testified that he conveyed to the President the Mississippi governor’s request for federal troops.<sup>86</sup> Blanco, surprised that Honoré only showed up with a small military staff, called the President again on 31 August to ask for 40,000 troops, with no regard to function. Later that afternoon, Forces Command gave alert orders to the Division Ready Brigade of the 82d Airborne Division at Fort Bragg, NC to “be prepared to provide a

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<sup>83</sup>Ibid., ch. 26.

<sup>84</sup>Ibid., 508.

<sup>85</sup>Davis et al., *Hurricane Katrina: Lessons for Army Planning and Operations*, 32.

<sup>86</sup>U.S. Congress, Senate, *Hurricane Katrina: A Nation Still Unprepared*, ch. 26-51.

brigade size force to operate distribution centers, and/or if appropriate authorization is received, conduit crowd control and security in the vicinity of New Orleans.”<sup>87</sup>

On 2 September, Governor Blanco made a written request to the President formally requesting the 40,000 troops and their associated vehicles. The next day President Bush ordered the deployment of over 7,200 Army and Marine forces, encompassing the Division Ready Brigade from the 82d Airborne, the Second Brigade Combat Team of 1st Cavalry Division, and the 24th Marine Expeditionary Unit. Forces Command selected these units not based on their capability, but based on their readiness; their tasked mission was humanitarian relief, not law enforcement.<sup>88</sup> Lead elements from each unit would reach Louisiana in two days, although the entire element would not be on the ground until 7 September. The 24th Marine Expeditionary Unit had a deployment overseas pending and was in the middle of their predeployment training. There were few Army brigades available due to either just returning from, or getting ready to deploy. There was considerable risk in selecting one of these units to respond to the disaster areas. If there were an unexpended overseas contingency, the only choice would be to send a less ready unit potentially into combat.

Under the provisions of the Insurrection Act, the President could have forcibly federalized the ARNG at the request of the state, effectively putting all forces in one chain of command to preserve unity of effort. Under the Insurrection Act, these federalized forces would then be exempt from the provisions of the PCA for the purposes of law enforcement. However, the problem in the gulf coast states was a natural disaster, not an insurrection to overthrow the government. Governor Blanco’s insistence not to federalize the Louisiana ARNG led the President to propose a hybrid approach. Lieutenant General Honoré, as the Joint Task Force

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<sup>87</sup>Ibid., ch. 26-30.

<sup>88</sup>Ibid., ch. 26-58.

Katrina commander, would be appointed a de facto member of the Louisiana ARNG, and the associated ARNG forces in the state placed under his command. Thus, Lieutenant General Honoré would effectively command two forces: one federal, reporting to the President, and one state, reporting to the Governor.<sup>89</sup> Governor Blanco rejected this because she believed that the Louisiana Adjutant General should remain in command of ARNG troops for the purposes of law enforcement and humanitarian assistance, and that the Joint Task Force Katrina forces, with their superior mobility capabilities, should focus on search, rescue, and evacuation. This effectively created two unsynchronized forces operating in the same area of operations.

The inefficiencies in the command and control structures presented severe coordination challenges between the separate structures. It is certainly doubtful that state governors and federal military commanders synchronized their desires all the time. There is no definitive evidence showing that with a unified structure the more sensationalized events covered by the media during the crisis would have been ameliorated. Despite this, it is reasonable to assume that the process of working out this unique command and control structure during the actual crisis took time, effort, and focus away from the main task of proving relief to the citizens of Mississippi and Louisiana.

#### ANALYSIS OF CRITERIA AGAINST THE HYPOTHESIS

More often than not, blaming the commander as the sole cause of a military failure is a scapegoating technique that is not productive for an organization to discover the root causes of failure. Simultaneously, it is an overstatement to blame the entire military for a failed operation. The answer would seem to reside somewhere in the middle of the two. It is possible to trace an interconnected causal link to show how failure can exist within a complex environment. Military organizations, in particular, are unique in that they organize as a strict hierarchy, and yet are often

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<sup>89</sup>Davis et al., *Hurricane Katrina: Lessons for Army Planning and Operations*, 41.

required to operate in environments where they are detached from their chain of command. A military organization is like an autonomous system in that regard. As Elliot Cohen points out in his book, *Military Misfortunes: The Anatomy of Failure in War*, “men form organizations, but they also work with systems. Whenever technological components are linked together in order to carry out a particular [activity], the possibility exists that the normal sequence of events the system has been designed to carry out may go awry when failures in two or more components interact in an unexpected way.”<sup>90</sup> Such was the case in the L.A. riots and Hurricane Katrina.

Cohen and Gooch describe five steps to mapping military misfortune in order to determine root causes of failure. The steps are to derive the failure to be analyzed, identify the critical tasks that were incomplete or unfulfilled, conduct an analysis of the behavior at the different levels of organization, draw an analytical matrix that presents, in a graphic format, the key problems, and finally to derive a ‘pathway to misfortune’ that clearly identifies the larger problem.<sup>91</sup> Within the case studies presented earlier, the study has completed steps one through three by identifying within each scenario the various echelons and key tasks that the military forces had to accomplish. These are modeled on the different axis of the figures. On the Y-axis, the echelons of command are distributed from highest, the federal level authorities, to the lowest tactical levels. On the X-axis are the four key tasks required by responding relief efforts. As identified in each case study, response must be rapid and well coordinated in order to alleviate human suffering by maintaining law and order. After describing the critical failures in each case study, Tables 3 and 4 depict causality affecting the problem.<sup>92</sup> These complex non-linear systems show that the single effects of one actor have an interdependent relationship with the other agents

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<sup>90</sup>Cohen and Gooch, 22.

<sup>91</sup>Ibid., 46.

<sup>92</sup>Created by author. Note that the solid arrows indicate primary causal pathways to critical failure; dotted lines show secondary, reinforcing pathways.

in the system. Despite their complexity, when mapped it becomes easy to see the relationships that lead to the critical failures. In both case studies, the three measured variables of capabilities, training, and employment are traced throughout.

Table 3. Matrix of Failure, L.A. Riots

	Maintain Law and Order	Alleviate Human Suffering	Coordinated Response	Rapid Deployment
Federal Authority	1.1 POTUS invokes Insurrection Act; Federalizes National Guard	1.2 Not Applicable	1.3 Federal government officials express lack of confidence in National Guard	1.4 No troops apportioned for support to civil authorities
State Government	2.1 National Guard initially permitted to conduct aggressive law enforcement	2.2 Ineffective interagency cooperation	2.3 Public bickering of public officials because of lack of situational awareness	2.4 <i>Failure:</i> NGB had atrophied plans for civil support
City Government	3.1 Mistrust between Mayor's office and the Chief of Police	3.2 <i>Critical Failure:</i> Most destructive rioting occurred within first three days	3.3 Not Applicable	3.4 <i>Failure:</i> Emergency Operations Center established slowly
JTF-Los Angeles	4.1 <i>Critical Failure:</i> Active forces "don't do law enforcement;" Accept <10% of requested missions	4.2 Changes to the local command structure; National Guard loses direct authority to coordinate with police	4.3 Responded as directed by city authorities	4.4 <i>Failure:</i> Federal troops not activated until three days after riots began
Tactical / Local First Responders	5.1 <i>Critical Failure:</i> Majority of soldiers had no training for riot control/law enforcement	5.2 Mistrust between National Guard and Active Duty soldiers	5.3 <i>Critical Failure:</i> Military Operations were reactive	5.4 Logistical unpreparedness slowed deployment

Source: Created by author.

#### Matrix of Failure; L.A. Riots

The L.A. Riots provide an excellent example of how multiple contributing factors can accumulate into critical failures during a domestic incident. Although there was no standing command responsible for North American security that is equal to present-day Northern Command (NORTHCOM), there is ample evidence that the lack of federal force apportionment

for civil disturbance was the start of many of the failures. Inherent in the nature of force apportionment is the assignment of mission areas to subordinate units for future employment. Mission requirements lead to training and material readiness. In this case, there was a delay in the activation and deployment of federal forces to the disaster area during the time that they were needed most. This was exacerbated by a lack of material readiness—the soldiers did not deploy with the equipment or ammunition needed for the mission.

The riots clearly met the standard to invoke the Insurrection Act, but the decision by the Joint Task Force Los Angeles Commander to place priority of effort on riot control, without giving the ARNG the capacity to continue coordination with local police was a critical failure. By concentrating on the riots, Joint Task Force Los Angeles shifted the burden completely on the local police to handle everything else. The lack of training in law enforcement and riot control by federal forces was a major contributing factor to a lack of capability to handle the crisis. There is no doubt that the riots were destructive, but the lack of effective law enforcement failed to slow the contributing factors that led to even more riots. Eventually, on-the-job education filled this gap, but training during a crisis is not a preferred training strategy when American lives are on the line.

The human component dealing with the relationship between actors is essential in complex environments. Trust was not an element of failure, but the diagram shows it to be a major contributing and reinforcing factor of failure. From the federal level down the streets, trust led to misunderstandings, miscommunication, and a lack of unity. Training has many secondary effects for a unit preparing to conduct a mission; one of them is building trust. If active and reserve forces had trained together in preparation for a potential DSCA mission, the element of trust would be stronger. The lack of a habitual relationship between actors at all levels had secondary effects that rippled throughout the entire problem.

Table 4. Matrix of Failure, Hurricane Katrina

	Maintain Law and Order	Alleviate Human Suffering	Coordinated Response	Rapid Deployment
Federal Authority	1.1 POTUS did not invoke Insurrection Act	1.2 Not Applicable	1.3 Failure: NIMS system established, but not rehearsed or trained	1.4 Failure: No forces apportioned to NORTHCOM; No warning sent to Force Providers
State Government	2.1 Failure: State did not convey magnitude of law enforcement capability gaps	2.2 Failure: Underestimation of first responder requirements; not prepared for magnitude of destruction	2.3 Failure: Refused to federalize state troops; did not understand or want JTF Command	2.4 Critical Failure: Did not preemptively request federal forces in disaster areas
JTF-Katrina	3.1 Failure: No authorities to act under Title 10; Could not communicate with local first responders	3.2 Assigned to specific mission of evacuation due to lack of authorities	3.3 Ad hoc organization had no habitual relationship with state, local responders	3.4 JTF established with no accompanying force structure; Three brigade-sized elements deployed within 48 hours
Operational	4.1 Failure: Title 10 had no authority to enforce law; lack of definition on support to local law enforcement	4.2 Critical Failure: Suffering prolonged due to inability to integrate missions of logistical support, search and rescue and evacuation	4.3 Failure Uncoordinated local response efforts hindered unity of effort; No situational awareness between National Guard and Active Duty	4.4 Failure: Units were selected based on availability without regard to skills
Tactical / Local First Responders	5.1 Critical Failure: Soldiers were not equipped or trained for support to law enforcement; other missions	5.2 Local first responder efforts were overwhelmed in the aftermath of massive storm	5.3 Inability to communicate at the tactical level hindered response efforts	5.4 Failure: Federal units slow to deploy to disaster area

Source: Created by author.

#### Matrix of Failure; Hurricane Katrina

Hurricane Katrina presents a distinctly different problem set, a disaster caused by nature and not by human actors, but similarities in the same three variables of training, capabilities, and habitual relationships are present. The terrorist attacks on 11 September 2001, led to the creation of NORTHCOM, the Department of Homeland Security, and the National Response Framework; however, these organizations focused almost exclusively on terrorism and not disaster relief. So concerning National Incident Management System, the lack of planning and practice with the

new system led to misunderstandings at the state level as to the roles and responsibilities of the federal government during this type of crisis. The President, seeing that this was not an insurrection per se but an issue of disaster relief, did not invoke the Insurrection Act, which put the responsibility to request and direct assistance on the states of Mississippi and Louisiana. The combination of a lack of assigned forces to NORCOM and the lack of understanding by the states led to an underestimation of the forces needed to handle the crisis and a sluggish response by the federal government. These events, as shown in Figure 5, led to the split organizational structure between active and reserve forces and the ad hoc nature of the response, directly resulting in prolonged suffering by the people of Louisiana and Mississippi.

Because forces in the total Army focused on other missions, specifically Operation Iraqi Freedom and Operation Enduring Freedom, there was no organization behind the employment of troops to the disaster area. EMAC units sent to the disaster area often did not know the mission they were to execute when they arrived. The ready brigade from the 82nd Airborne Division, along with brigades from the 24th Marine Expeditionary Unit and 1st Cavalry Division, had no training to deal with a disaster of this magnitude. Other units were assigned to other missions and were either deployed, redeploying, or training to deploy again.

Correctly identified as a disaster relief mission and not a civil insurrection, the failure to appreciate the attraction of a crisis of this magnitude to criminal elements hindered relief efforts. Despite the presence of ARNG units under EMAC, these units deployed on an ad hoc basis. Even under Title 32 authorities, without the proper training in law enforcement, the ARNG was not prepared to handle the looting, murders, sexual assaults, and general criminality. This led to a feeling of anarchy expressed over popular media by leaders at all levels, exacerbating the crisis. The breakdown of communication between federal troops, ARNG troops, and first responders directly hindered response efforts.

### Analysis of Evaluation Criteria against the Hypothesis

Based on the case studies and the modeling of causal links through the Cohen-Gooch models, the identified critical failures of each incident can be laid against the three evaluation criteria of the capabilities required in response forces, the training level of those forces, and the ability to integrate as a supporting command. The true utility of this model is the ability to look back from the critical failures and trace them to their root causes. This analysis leads to conclusions to answer the research question of whether or not military police are the ideal units to take prominence in DSCA response missions.

During a crisis of a magnitude requiring federal support, the needs of state and local emergency assets are overwhelmed. By the nature of federal response within the National Response Framework, the capabilities required during such an emergency may only exist within a military unit. Many of these required capabilities are beyond the addition of more manpower or more transportation assets, they are skills that require formal training and rehearsal. In each case study, there was either a need for direct support to law enforcement, such as with the case in the L.A. riots, or indirectly in Hurricane Katrina. In either case, a pervasive element of criminality will exist within the operating environment. If not managed effectively, violence can build and eventually spin out of control. Military police units are specifically designed to provide a unique law enforcement capability that is not duplicated anywhere within the DOD. Military police, by design, meet the intent within the wide area security construct by protecting forces, populations and infrastructure and consolidating gains to achieve strategic and policy goals. When laying the capabilities of professional law enforcement next to the recommended task areas from the L.A. riot, there is a direct correlation between what is required and the skills that exist within military police formations.

In each case study, there was a delay in training, organizing, or equipping the response forces. In the case of the L.A. riots, a lack of understanding of the importance of law enforcement

led to re-missioning of federalized ARNG soldiers away from a law enforcement focused strategy to a civil disturbance strategy that showed evidence of prolonging the incident. In the massive “all hands on deck” mentality that accompanied the surge to support the citizens of Mississippi and Louisiana following Hurricane Katrina, units deployed to the disaster area not knowing what their assigned mission would be when they arrived. In each case, the state leadership asked for more support to law enforcement, but often had to make do with whatever type of units arrived. The training levels inherent in military police formations through a mix of certification exercises and practical on the job training result in a high level of readiness for the missions required during DSCA. Military police units also have the correct equipment, to include support personnel, to sustain a support to law enforcement mission. When determining the types of units to deploy to a disaster area force managers should leverage this readiness.

Of the three evaluation criteria, integration into a DSCA environment is the least developed. First, integration with local emergency managers and first responders requires trust and a common professional language. Through the Police Officer Standards and Training program and Federal Law Enforcement Training Accreditation processes, Army military police units developed those characteristics. A level of professional respect and trust are critical; military units responding to assist a police force in a large city such as L.A. or New Orleans would have benefitted from the instant credibility that professionalism brings, in much the same way that two surgeons who have never met can work together in surgery.

The more important integration ability to rapidly mobilize and deploy to a crisis area is still critically underdeveloped. In each case study, forces were too slow to respond to the disaster in order to mitigate the human suffering caused in each incident. In the case of L.A., failure is traced to a lack of successful planning and rehearsal at the ARNG Bureau for a response to a civil disturbance and a lack of force apportionment at the federal level. In the case of Hurricane Katrina, there is ample evidence that the ad hoc nature of surging response forces added to initial

confusion and a mismatch of capabilities to requirements in the disaster area. Even with National Incident Management System in place, there was a lack of understanding between the responding forces and state leadership, which is a direct cause of failure.

It is evident that for the purposes of law enforcement, except in the extreme cases where the Insurrection Act is invoked and PCA is waived, the ARNG will be the lead. There are existing EMAC agreements in place that can provide for mutual aid between states as required. A regional force apportionment approach for ARNG military police brigades through the Army Force Generation process would provide a quick response DSCA capability to NORTHCOM in order to bridge this gap. In the Army Force Generation cycle, these units designated as “theater committed” to NORTHCOM, are deployable and therefore untouchable for other contingencies.<sup>93</sup> This would give them both authorization and resourcing to train, man, and equip for potentialities within their assigned areas. These units would resource and train in the same manner as other mission-aligned units deploying to other regions for other missions. Assigned units could then, without distraction, conduct coordination and rehearsals with local emergency response managers to best prepare for response as well as coordinate with other forces assigned to NORTHCOM for DSCA response. Each military police headquarters would control other units from affected states as well as liaison with other elements as required that would enhance their capabilities. This is an expansion of the Army’s “regional alignment” strategy; this time incorporating NORTHCOM as a deployable region.

At the federal level, units are available for domestic employment until they officially have another mission.<sup>94</sup> However if active duty military police brigades are selected for a directed

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<sup>93</sup>Headquarters, Department of the Army, Army Regulation 525-29, *Army Force Generation*, Official Department of the Army Publications and Forms, 14 March 2011, [http://armypubs.army.mil/epubs/pdf/r525\\_29.pdf](http://armypubs.army.mil/epubs/pdf/r525_29.pdf) (accessed 1 March 2014), 1-4.

<sup>94</sup>Davis et al., *Hurricane Katrina: Lessons for Army Planning and Operations*, 59-60.

mission, they could serve as the second line of defense behind ARNG first responders without a drop in overall readiness for installation law enforcement missions. Once identified within Army Force Generation, they can take the initiative to plan for deployment and the contingencies surrounding the gap in law enforcement at home station following a deployment, much in the same way as they do when planning to deploy in support of overseas contingencies. This would alleviate the need to use a non-tailored ready brigade, as in Hurricane Katrina. More study is needed to ascertain the right mix of units, and the assignment of regionally aligned forces to actual NORTHCOM regions.

## CONCLUSION

This study of the DSCA environment began with an excerpt from the Army Operating Concept and highlighted four main tasks identified as critical for Army forces' success:

- (1) **Unity of command is potentially problematic** due to split authorities, particularly when conducting simultaneous homeland defense and civil support missions. DOD is the lead agency for homeland defense, and a supporting agency for civil support.
- (2) Army forces conducting homeland defense and civil support missions require **extensive integration** and **must coordinate closely with multiple local civil and law enforcement authorities**.
- (3) When operating on U.S. soil, leaders and Soldiers must **understand the legal authorities and caveats** related to military operations such as those pertaining to collecting and maintaining information on and detaining U.S. citizens.
- (4) The **integration of Title 10 and Title 32 forces will require planning and training to best utilize the capabilities of each.**<sup>95</sup> [emphasis added]

Each of these highlighted areas is a direct parallel to the variables analyzed in this monograph—training, readiness, and integration. It has been determined that ideally, military police forces are well suited for DSCA missions. Further recommendations to study a plan for apportionment of both reserve and active duty military police brigades in order to build rotational

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<sup>95</sup>DOA, TRADOC PAM 525-3-1, *The United States Army Operating Concept*, 28.

capacity for DSCA are a critical way ahead. A NORTHCOM regionally aligned rotational capacity will ensure resourcing and rehearsal for DSCA so that in the future, U.S. citizens are assured a measure of safety and security during the times they need it most.

These conclusions and recommendations are not so naive to suggest that a heavy emphasis on military police is a panacea solution for DSCA. Clearly, within other specialty branches of the armed forces there reside other critical skills required in a future potential domestic mission. Military police do not possess adequate medical, engineering, transportation, or aviation capabilities to handle every possible contingency. However, the ability for these units to function during a chaotic domestic incident first requires a safe and secure environment. Whether as a direct cause of the domestic incident, or a result of it, criminality and chaos will exist in all DSCA environments. There is only one type of unit in the DOD that has the correct capabilities, training, and potential for increased integration and utilization for rapid deployment to a disaster area to manage these elements and build stability.

In broad language, the Army is designed for major, force-on-force engagements with an armed enemy combatant. While the military can, and often does, mobilize in large numbers for deployment to austere environments, the fact is there are very few organizations with experience or training in the law enforcement support tasks essential to DSCA. An analyst has been quoted saying that the military is a “blunt instrument” that is “capable only of imposing a most basic, rigid form of order,” involving attempts to “deter and limit loss of life and destruction of property, but that is about all.”<sup>96</sup> A combat soldier put it more bluntly:

Infantry’s not meant to do this job . . . military police are taught to exercise restraint in the use of force and to seek alternatives to violence for handling conflicts. They are trained in riot and crowd control, and in interacting with disputants. Combat soldiers on

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<sup>96</sup>Kevin D. Stringer, *Military Organizations for Homeland Defense and Smaller-Scale Contingencies: A Comparative Approach* (Westport, CT: Praeger, 2006), 155.

the other hand, said they would be more like to feel that they were prevented from dealing with a situations as they had been trained.<sup>97</sup>

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<sup>97</sup>Stringer, *Military Organizations for Homeland Defense and Smaller-Scale Contingencies*, 155.

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